

Serial No. 10/767,531

Filing Date: January 29, 2004

Response to Non-Compliant Amendment mailed January 24, 2007

Page 4 of 7

### **REMARKS**

In response to the non-final Office Action mailed July 27, 2006, the Attorney for the Assignee submits the appended amendments and remarks. Claims 20-22, 24-27, and 29 are pending in the present application. Claim 28 has been cancelled, and claim 24 has been amended. The present amendment and response traverses all of the prior Office Action rejections, and allowance of the pending claims is kindly requested.

#### **I. REJECTION OF CLAIMS 24 AND 28 UNDER 35 U.S.C. 112**

The Office Action rejected claims 24 and 28 under the second paragraph of 35 U.S.C. § 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter. Claim 24 has been amended to depend from independent claim 20. Claim 28 has been cancelled. These rejections are now believed to be traversed.

#### **II. REJECTION OF CLAIMS 20-22, 24-26, 28, and 29 UNDER 35 U.S.C. § 103(a)**

The Office Action rejected claims 20-22, 24-26, 28, and 29 under 35 U.S.C. § 103(a) as being unpatentable over *Bullock* (U.S. Pat. No. 6,089,802) in view of *Epstein* (U.S. Pat. No. 6,478,229). Furthermore, the Office Action rejected claim 27 as being unpatentable over *Bullock* and *Epstein*, in further view of *Blatt* (U.S. Pat. No. 4,264,251). The rejections are respectfully traversed.

Previously amended claim 20 includes a "separate patch comprising a third end and a fourth end, wherein the third end is pre-attached to the strap at a contact section near the first end prior to installation around the freight." (Underlining Supplied). In response to Applicant's prior arguments, the Office Action states that the Applicant has provided "no discriminant in the claim to distinguish the separate patch," and that Figures 3-6 of *Bullock*

Serial No. 10/767,531

Filing Date: January 29, 2004

Response to Non-Compliant Amendment mailed January 24, 2007

Page 5 of 7

teach a strap that is “considered to be the separate patch that is a continuous portion of the first layer and formed during the process of manufacturing the first layer.” Office Action, page 3.

As recited in the Amendment and Response dated July 25, 2005, neither *Bullock* or *Blatt* disclose or suggest the use of a strap and patch combination with a “strap” and “a separate patch” to restrain freight as in the Applicant’s claimed invention. Rather, *Bullock* relates to a single strip with adhesive coatings, but no separate patch. *Blatt* relates to a single sheet of material with adhesively securable ends, but no separate patch. To clarify the scope of the claims, independent claim 20 includes a “strap and patch combination for restraining freight, comprising: (a) a strap...; and (b) a separate patch....” (Underlining Supplied). Neither *Bullock* nor *Blatt* disclose or suggest both a strap, and a separate patch. For at least these reasons, neither *Bullock* nor *Blatt* disclose all of the elements of previously amended claim 20, so previously amended claim 20 should be allowable over the cited references.

With respect to *Epstein*, the Office Action states that *Epstein* (Fig. 1) teaches the desirability of controlling the mechanical properties of the strap. Office Action, p. 3. However, *Epstein* is only concerned with “reinforcement” of a tape, in particular, for ensuring the durability of the tape, which includes RFID tags to track packages the tape is associated with. See Col. 3, line 40 – Col. 4, line 55. *Epstein* is not concerned with securing freight, wherein the Applicant’s claimed invention relates to securing freight. For example, *Epstein* merely states that “[p]ackaging tapes with RFID technology as provided herein can be used to seal cartons or envelopes that are to be shipped or stored.” There is no reference

Serial No. 10/767,531

Filing Date: January 29, 2004

Response to Non-Compliant Amendment mailed January 24, 2007

Page 6 of 7

by *Epstein* that the tape is suitable for securing freight. The physical differences between *Epstein* tape used for packaging and tracking a package are significantly different from the Applicant's claimed strap used for securing freight. For at least these reasons, *Epstein* cannot be combined with either *Bullock* or *Blatt*.

Furthermore, the Office Action states that "applicant has clearly chosen a claim construction that includes the patch being a continuous portion of the first layer and formed during the process of manufacturing the first layer." Office Action, p. 4. Claim 28, which recited a patch "formed during the process of manufacturing the first layer," has been cancelled. Accordingly, the Office Action rejection of claim 28 and corresponding argument are now moot.

Dependent claims 21, 22, 24-27, and 29 are ultimately dependent from previously amended independent claim 20 for which arguments of patentability have already been advanced above. Therefore, since neither *Bullock* nor *Blatt* disclose each and every element of Applicant's dependent claims 21, 22, 24-27, and 29, and since *Epstein* cannot be combined with either of these references, these claims should also be patentable over the cited art.

Serial No. 10/767,531  
Filing Date: January 29, 2004  
*Response to Non-Compliant Amendment mailed January 24, 2007*  
Page 7 of 7

### CONCLUSION

Claims 20-22, 24-27, and 29 are pending in the application. Claim 28 has been cancelled, and claim 24 has been amended. The Office Action rejections are believed to be traversed by the present amendment and response and the pending claims should now be in condition for allowance. The Examiner is invited and encouraged to contact the undersigned attorney of record at (404) 815-6061 if such contact will facilitate a Notice of Allowance for claims 20-22 and 24-27, and 29. If any additional fees are due, the Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, to Deposit Account No. 11-0855.

Respectfully submitted,



Michael J. Turton  
Reg. No. 40,853

Date: February 8, 2007

KILPATRICK STOCKTON LLP  
1100 Peachtree Street  
Suite 2800  
Atlanta, Georgia, 30309-4530  
404.815.6061 (direct)  
404.541.3250 (fax)  
Attorney Docket No.: 45626/284121